



May 27, 1999

Mr. Marcus W. Norris
City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR99-1466

Dear Mr Norris:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125908.

The City of Killeen Fire Department received a request for medical records of a named individual. You ask whether the requested information must be withheld under section 552.101 of the Government Code.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. You advise that the records you submitted as responsive to the request were prepared by the "City of Killeen Fire/E.M.S. paramedics." Chapter 773, subchapter D, of the Health and Safety Code governs the release of emergency medical service ("EMS") records. Section 773.091(b) of the chapter provides:

(b) records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this subchapter.

Section 773.092(e)(4) provides that EMS records may be disclosed to "any person who bears a written consent of the patient." Section 773.093(a) provides that such written consent must specify: (1) the information or records to be covered by the release, (2) the reason or purpose for the release, (3) the person to whom the information is to be released.


You question the effectiveness of the consent form the requestor furnished with his request. If you determine that the consent form does not comply with the requirements set out above,

you must withhold the requested records from the requestor, except as noted below.¹ *See* Open Records Decision No. 546 (1991) (ineffectiveness of consent to release records under the Medical Practices Act, V.T.C.S. art. 4495b).

Subsection (g) of section 773.091 specifically provides that information as to “the presence, nature of injury or illness, age, sex occupation, and city of residence of a patient receiving emergency medical services” is not protected by the confidentiality provisions of the section. Therefore, you must in any case release the information listed in subsection (g) to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref.: ID# 125908

encl. Submitted documents

cc: Mr. Jerry Scarbrough
501 North Fourth Street
Killeen, Texas 76541
(w/o enclosures)

¹We note that you cite, as applicable to the records here, the confidentiality provision and exceptions set out in V.T.C.S. article 4495b, the Medical Practices Act (the “MPA”). *See id.* §5.08. Since the provisions of chapter 773, subchapter D, of the Health and Safety Code specifically apply to EMS records, we do not address the MPA provisions here except to note that, even assuming that the MPA provisions also apply to EMS records, the requisites of a consent under those provisions are the same as under section 773.093(a). *See* V.T.C.S. art. 4495b, §5.08(j)(1). *See also* Health and Safety Code § 773.091(d) (“This subchapter governs . . . records concerning a patient regardless of when the patient received the services of emergency medical services personnel or a physician providing medical supervision”). *But see* Open Records Decision No. 598 (1991).